

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

Marc C. Stanley,)	
)	
Plaintiff,)	Civil Action No.1:11-cv-00607-JMC
)	
v.)	OPINION AND ORDER
)	
Donald Beckwith, Warden,)	
)	
Respondent.)	
_____)	

This matter is now before the court upon the Magistrate Judge's Report and Recommendation ("Report"), [Doc. 28], filed on May 27, 2011, recommending that Petitioner Marc C. Stanley's ("Petitioner") Petition for Writ of Habeas Corpus, [Doc. 1], be dismissed without prejudice and without issuance of service of process because Petitioner has failed to exhaust his state court remedies.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

In response to the Magistrate Judge's Report, Petitioner filed Petitioner's Written Objections [Doc. 30] and Petitioner's Motion for Reconsideration and Motion to Vacate Guilty Plea [Doc. 33]. Objections to the Report must be specific. Failure to file specific objections constitutes a waiver of

a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Report sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's Report herein without a recitation.

The court finds that Petitioner's objections to the Magistrate Judge's Report are not specific objections, but merely restatements of the arguments made in his initial filings, and do not alert the court to matters which were erroneously considered by the Magistrate Judge. The court finds that the Magistrate Judge's Report appropriately addresses Petitioner's arguments. Petitioner has submitted to the court Petitioner's Motion for Reconsideration and Motion to Vacate Guilty Plea, [Doc. 33], which again restates the arguments made in Petitioner's initial filings. However, as the Magistrate Judge noted, with regard to Petitioner's conviction and sentence, Petitioner's only federal remedy is a writ of habeas corpus, which can only be sought after Petitioner fully exhausts his state court remedies.

Therefore, after extensive review of the Magistrate Judge's Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein.

It is therefore **ORDERED** that Petitioner Marc C. Stanley's Petition for Writ of Habeas Corpus [Doc. 1] be **DISMISSED** without prejudice and without issuance of service of process and that Petitioner's Motion for Reconsideration and Motion to Vacate Guilty Plea [Doc. 33] be **DISMISSED**.

IT IS SO ORDERED.

J. Michelle Childs

United States District Judge

March 19, 2012
Greenville, South Carolina